

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fendley	Team: Squad #5	CCRB Case #: 201502848	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/15/2015 1:30 PM	Location of Incident: In front of § 87(2)(b)	Precinct: 52	18 Mo. SOL 10/15/2016	EO SOL 10/15/2016	
Date/Time CV Reported Wed, 04/15/2015 2:07 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 04/15/2015 2:07 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Paul White	25819	947872	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Paul White	Abuse: PO Paul White stopped § 87(2)(b)	§ 87(2)(b)
B.POM Paul White	Abuse: PO Paul White threatened to arrest § 87(2)(b)	§ 87(2)(b)
C.POM Paul White	Abuse: PO Paul White searched § 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On April 15, 2015, § 87(2)(b) filed this complaint via telephone with the CCRB.

On April 15, 2015, at approximately 1:30 p.m., § 87(2)(b) was stopped by PO Paul White of the 52nd Precinct in front of § 87(2)(b) in the Bronx (**Allegation A**). § 87(2)(b) had been walking down the street smoking a cigarette when he was stopped by PO White, who asked him what he had been smoking (**subsumed into Allegation A**). PO White asked § 87(2)(b) for his identification and when § 87(2)(b) did not provide it, PO White threatened to arrest him (**Allegation B**). When § 87(2)(b) asked what he would be arrested for, PO White searched him by reaching into § 87(2)(b)'s front, left pants pocket (**Allegation C**). No summonses or arrests resulted. § 87(4-b), § 87(2)(g)

Mediation, Civil and Criminal Histories

This case was not suitable for mediation § 87(2)(b), § 87(2)(g)

§ 87(2)(b) A request for notice of claim results from the New York City Comptroller's Office was submitted on June 3, 2015. However, at the time this closing report was submitted the results were still pending. § 87(2)(b) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

PO White has been a member of the service for seven years and there are no substantiated allegations against him. § 87(2)(g)

§ 87(2)(b) has one prior CCRB complaint. § 87(2)(b)

Investigative Findings and Recommendations

Allegations Not Plead

The questioning and the stop of § 87(2)(b) occurred simultaneously. § 87(2)(g)

Allegation A – Abuse of Authority: PO Paul White stopped § 87(2)(b)

Allegation B – Abuse of Authority: PO Paul White threatened to arrest § 87(2)(b)

Allegation C – Abuse of Authority: PO Paul White searched § 87(2)(b)

§ 87(2)(b) said that he was walking down Bainbridge Avenue, smoking half of a rolled up cigarette containing tobacco. There was no marijuana in the cigarette and he had not smoked marijuana earlier that day. § 87(2)(b) finished smoking the cigarette and threw it onto the ground. Shortly thereafter, PO White walked up to § 87(2)(b) grabbed his shoulder and turned him around. PO White immediately asked § 87(2)(b) what he had been smoking and asked for his identification. When § 87(2)(b) refused, PO White threatened to take § 87(2)(b) to the stationhouse and arrest him. PO White then reached into § 87(2)(b)'s front, left pants pocket and pulled a cigarette butt out. § 87(2)(b) asked PO White for his name and badge number, which he provided. No summonses or arrests resulted.

§ 87(2)(b) a resident of the house § 87(2)(b) was stopped in front of and a witness, provided a statement regarding the incident. He confirmed that PO White stopped § 87(2)(b) When § 87(2)(b) raised his voice and refused to lower it, § 87(2)(b) heard PO White tell § 87(2)(b) that they could resolve the incident either there or at the stationhouse. PO

White told § 87(2)(b) to empty his pockets and when § 87(2)(b) did not comply, PO White reached into § 87(2)(b)'s two front pockets and one of his back pockets.

PO White acknowledged stopping § 87(2)(b) and said that he did so because he thought § 87(2)(b) was smoking a marijuana cigarette. He thought so because § 87(2)(b) was holding the cigarette between his pointer finger and thumb and also because he was inhaling each puff in rapid succession. However, when PO White approached § 87(2)(b) he did not smell the odor of marijuana. PO White said that as he approached § 87(2)(b) § 87(2)(b) put the cigarette inside of his left pocket. PO White asked § 87(2)(b) what he had been smoking, but § 87(2)(b) would not answer. PO White did not remember telling § 87(2)(b) that he could arrest him and denied reaching into any of § 87(2)(b)'s pockets.

§ 87(2)(b) the witness, did not personally know either § 87(2)(b) or PO White at the time of the incident. Further, he offered his opinion that he thought § 87(2)(b) was “boisterous” during the incident and that he thought PO White did nothing wrong. Therefore, § 87(2)(b) is an independent witness in this case. Because § 87(2)(b) heard PO White threaten to arrest § 87(2)(b) and saw PO White search § 87(2)(b) it was established that they did in fact occur.

Reasonable suspicion of criminality is required for a forcible stop. People v. DeBour, 40 N.Y.2d 201 (1976) (Board Review 3). In order for a threat of arrest to be lawful, it must be made in good faith and based upon probable cause. NYPD v. Grossman, OATH Index No. 2382/00R (Board Review 4). To perform a search, an officer must have probable cause. People v. DeBour, 40 N.Y.2d 201 (1976).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

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Pod: 5

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date